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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,612	11/30/2001	Stephen Ewer	42579	6098

7590 02/08/2005

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EXAMINER

TUGBANG, ANTHONY D

ART UNIT PAPER NUMBER

3729

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/996,612

Applicant(s)

EWER ET AL.

Examiner

A. Dexter Tugbang

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-46 is/are pending in the application.
- 4a) Of the above claim(s) 42-46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-41 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention of Group I, Claims 22-41 in the reply filed on 11/19/04 is acknowledged. The traversal is on the ground(s) that Groups I and II, each do not have separate utility, and thus, should be examined together. This is not found persuasive because while the applicant(s) have cited features in each of Groups I and II that are similar, it is the differences between each Group that incur each as being separate usable or having separate utility. The applicant(s) are reminded that "utility" in this case is directed to the process of making, not necessarily the function or the operation of the product. So within the process of making, for example, Group I (at least Claim 22) requires joining with a first junction area having an open side and joining with a second junction area having an open side, which is not even required in Group II (or at least Claim 42). Also, Group II requires first and second cover fittings that are substantially identical, which is not even required in Group I (or at least Claim 22). So Groups I and II, each have separately usable processes that would require non-coextensive searches and completely separate and distinct lines of patentability.

Therefore, the requirement is still deemed proper and is therefore made FINAL.

2. Claims 42-46 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/19/04.

***Allowable Subject Matter***

3. The following is a statement of reasons for the indication of allowable subject matter.

With respect to the applied art in the last Office Action (Final Rejection, dated 4/6/04), the applicant(s) arguments filed in the response on 7/6/04 have been found to be persuasive. The examiner particularly notes that the reference applied to Bowen, as well as the prior art, does not teach coupling a first cover fitting over an open side of the first junction area and coupling a second cover fitting over an open side of a base member, in combination with all of the other limitations of at least Claim 22.

Accordingly, Claims 22-41 are allowed.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The newly cited reference herein to Reilly (U. S. Patent 3,532,369) is relevant to show the general state of the art of joining miter joints.

5. This application is in condition for allowance except for the following formal matters.

Claims 42-46 are to be canceled as being drawn to an invention non-elected with traverse.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

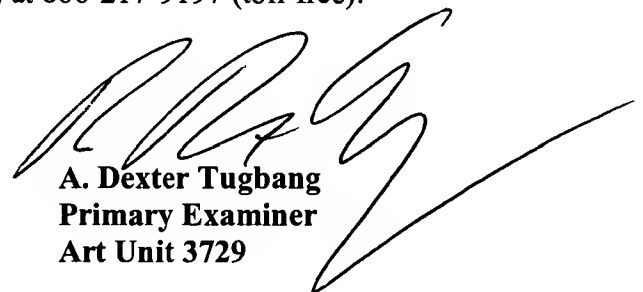
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 571-272-4570.

The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**A. Dexter Tugbang**  
**Primary Examiner**  
**Art Unit 3729**

February 7, 2005